

Message Text

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ACTION L-02

INFO OCT-01 ARA-06 ISO-00 CPR-01 SCA-01 SCS-03 INR-07 /021 W

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E.O. 11652: GDS

TAGS: CASC

SUBJ: INTERPRETATION OF ARTICLE 36, VIENNA CONVENTION ON
CONSULAR RELATIONS

REF: STATE 167653, AUG 2, 1974

1. EMBASSY WOULD APPRECIATE, FOR FUTURE GUIDANCE, A CLARIFICATION
ON USG INTERPRETATION OF ARTICLE 36 OF THE VIENNA CONVENTION
ON CONSULAR RELATIONS.

2. IT IS OUR UNDERSTANDING THAT THE DEPARTMENT, IN AT LEAST ONE
RECENT CASE, FOUND THAT ARTICLE 36 REQUIRES THAT WHEN A FOREIGN
NATIONAL IS ARRESTED OR OTHERWISE DETAINED, THE DETAINING AUTHORITIES
ARE OBLIGATED TO INFORM THE PERSON DETAINED OF HIS RIGHT TO REQUEST
THAT THE COMPETENT AUTHORITIES OF THE NATIONAL'S STATE BE INFORMED,
AND, TO COMMUNICATE PROMPTLY WITH THE APPROPRIATE CONSULAR
AUTHORITIES IF THE DETAINEE SO REQUESTS.

3. SOME MONTHS AGO A DUAL URUGUAYAN-U.S. CITIZEN WAS DETAINED
BY URUGUAYAN AUTHORITIES. ON THAT OCCASION THIS EMBASSY SOUGHT
CONSULAR ACCESS AND REQUESTED INSTRUCTIONS FROM THE DEPARTMENT
WHICH REPLIED (SEE REFTEL) THAT THE QUOTE EMBASSY AND/OR CONSULAR
OFFICER CANNOT INSIST UPON CONSULAR ACCESS ON LEGAL GROUNDS.
UNQUOTE. THUS IT APPEARS TO US THAT THE USG INTERPRETS ARTICLE 36
AS APPLYING TO U.S. CITIZENS BUT NOT TO DUAL CITIZENS. IS THIS
CORRECT? IF SO, WE WOULD APPRECIATE MORE PRECISE DEFINITION OF
RIGHTS OF A DUAL NATIONAL UNDER VIENNA CONVENTION SHOULD FUTURE CASES
OF THIS TYPE ARISE HERE.

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SIRACUSA

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